



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 13 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sarah E. Hartsfield, Esquire
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Suite 600
Springfield, VA 22160

Re: MUR 6812
Penn Line Services, Inc. *et al.*

Dear Ms. Hartsfield:

This is in reference to the complaint your client, Jeffery Richmond, filed with the Federal Election Commission on April 25, 2014, concerning Penn Line Services, Inc. ("Penn Line"), Laborers' International Union of North America, and Laborers' International Union, Local 453. The Commission found that there was reason to believe Penn Line violated 52 U.S.C. § 30118(b)(3)(B) and (C) (formerly 2 U.S.C. § 441b(b)(3)(B)-(C)) and 11 C.F.R. § 114.5(a)(3) and (4), provisions of the Federal Election Campaign Act of 1971, as amended, and the Commission's regulations. On October 5, 2016, the Commission accepted a conciliation agreement signed by Penn Line.

The Commission also voted to dismiss the allegations as they pertain to Laborers' International Union of North America and Laborers' International Union, Local 453, and it reminded them of the requirements of the Act and the Commission's regulations regarding solicitations to a separate segregated. Accordingly, the Commission closed the file in this matter on October 5, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy, Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). A copy of the agreement with Penn Line is attached for your information. A Statement of Reasons providing a basis for the Commission's decision regarding the Laborers' International Union respondents is not required in this matter, but if one is issued, it will be provided to you.

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Sarah E. Hartsfield, Esquire
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If you have any questions, please contact Kamau Philbert, the attorney handling this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", with a stylized flourish at the end.

Mark Shonkwiler

Enclosures
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

2016 SEP -8 AM 9:12

In the Matter of)
)
Penn Line Services, Inc.)

MUR 6812

OFFICE OF GENERAL
COUNSEL

CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission ("Commission"). See 52 U.S.C § 30109(a)(1) (formerly 2 U.S.C. § 437g(a)(1)). The Commission found reason to believe that Penn Line Services, Inc. ("Respondent") violated 52 U.S.C § 30118(b)(3)(B) and (C) (formerly 2 U.S.C. § 441b(b)(3)(B)-(C)) and 11 C.F.R. § 114.5(a)(3) and (4).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C § 30109(a)(4)(A)(i) (formerly 2 U.S.C. § 437g(a)(4)(A)(i)).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 1. Penn Line Services, Inc. ("Penn Line") is a Pennsylvania corporation that operates a construction business in West Virginia.
 2. The Federal Election Campaign Act of 1971, as amended (the "Act") prohibits a labor organization from making a contribution in connection with a federal election. 52 U.S.C § 30118(a) (formerly 2 U.S.C. § 441b(a)); 11 C.F.R. § 114.2(b). Labor

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organizations are permitted to establish and solicit political contributions to a separate segregated fund ("SSF"). 52 U.S.C § 30118(b)(2)(C) (formerly 2 U.S.C. § 441b(b)(2)(C)); 11 C.F.R. § 114.1(a)(2)(iii).

3. All contributions to an SSF must be voluntary and without coercion. *See* 52 U.S.C § 30118(b)(3) (formerly 2 U.S.C. § 441 b(b)(3)); 11 C.F.R. § 114.5(a).
4. The Act and the Commission's regulations make it unlawful for any person to solicit a contribution to an SSF from an employee without informing the employee of the political purpose of the SSF and of the right to refuse to contribute to the SSF without reprisal. 52 U.S.C § 30118(b)(3)(B)-(C) (formerly 2 U.S.C. § 441b(b)(3)(B)-(C)); 11 C.F.R. § 114.5(a)(3)-(4)).
5. The term "person" includes a corporation. 52 U.S.C § 30101(11) (formerly 2 U.S.C. § 431(11)).
6. If the SSF or connected organization suggests a guideline for contribution amounts, the solicitation must state that the guideline is merely a suggestion, that the member is free to contribute more or less than the guideline suggests, and that the union will not favor or disadvantage anyone because of the amount of the contribution or a decision not to contribute. 11 C.F.R. § 114.5(a)(2), (5).
7. Laborers' International Union of North America ("LIUNA") is an international labor organization that primarily represents construction workers. Its affiliate, Laborers' International Union, Local 453 ("Local 453"), represents Penn Line workers. Laborers' International Union of North America PAC ("LIUNA PAC") is the unions' SSF.
8. LIUNA and Local 453 provided Penn Line with a union membership form for new hires that included a payroll deduction section for political contributions to LIUNA

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PAC. That section stated that such deductions were voluntary, the individual could refuse to contribute without reprisal, the union could not favor or disadvantage the employee based on his or her refusal or the amount of the contribution, the contributions would be used for political expenditures or contributions to federal, state, or local elections, and the amounts on the form were merely suggestions.

9. On July 10, 2012, Penn Line hired Jeffrey Richmond as a driver/laborer.
10. Penn Line automatically deducted \$11.51 from Richmond's pay for political contributions to LIUNA PAC without giving Richmond the union authorization form.
11. On or about October 1, 2012, Penn Line mailed Richmond a union membership form. Richmond signed the portion of the form to become a member of the union, but he did not sign the section authorizing deductions to LIUNA PAC.
12. On October 15, 2012, a Penn Line official informed Richmond that his union form was being returned for him to authorize SSF deductions. The next day, Richmond told the official that he would not authorize the deductions. The official later told Richmond that he had been directed to take him home if he continued to refuse, and Richmond was fired for his refusal.
13. At the time Penn Line fired Richmond, it had deducted \$11.51 in unauthorized federal contributions to LIUNA PAC from his pay.
14. Respondent contends that it did not knowingly or willfully violate the law.

V. Respondent violated 52 U.S.C § 30118(b)(3)(B) and (C) (formerly 2 U.S.C. § 441b(b)(3)(B)-(C)) and 11 C.F.R. § 114.5(a)(3) and (4) by failing to inform Richmond that contributions to

the SSF were voluntary, by threatening Richmond's job if he did not consent to payroll deductions for such contributions, and by firing him when Richmond refused to consent.

VI. Respondent will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Five Thousand Five Hundred Dollars (\$5,500), pursuant to 52 U.S.C

§ 30109(a)(5)(A) (formerly 2 U.S.C. § 437g(a)(5)(A)).

2. Respondents will cease and desist from violating 2 U.S.C. §§ 441b(b)(3)(B) and (C), and 11 C.F.R. § 114.5(a)(3) and (4).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C § 30109(a)(1) (formerly 2 U.S.C § 437g(a)(1)) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Kathleen Guith

Kathleen Guith
Acting Associate General Counsel
For Enforcement

10-11-16

Date

FOR THE RESPONDENT:

Michael B Delmar

(Name) Michael B Delmar
(Position) Vice President
Penn Line Services, Inc.

8/24/2016

Date

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